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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,050	11/27/2000	Joseph G. Gatto	23449-010	4426
909	7590	03/10/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			SUBRAMANIAN, NARAYANSWAMY	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3624	
DATE MAILED: 03/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,050

Applicant(s)

GATTO, JOSEPH G.

Examiner

Narayanswamy Subramanian

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66,68-88 and 90-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-66,68-88 and 90-94 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to Applicant's amendment filed on December 27, 2005. Replacement drawings submitted on June 13, 2005 are accepted by the examiner. The office has no record of IDS submitted by the applicants on May 2, 2001. Applicants are requested to submit their file copy of the IDS along the proof of submission. Rejections made under 35 USC 112, second paragraph are withdrawn in view of the persuasive arguments. Claims 1-66, 68-88 and 90-94 are pending in this application and are subject to election/restriction as discussed below.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-38, drawn to a computer-implemented system for viewing performance data comprising a performance view module for viewing earnings estimates performance data for selected contributors, performance determining means for determining the performance of selected contributors; and a performance aggregation module for aggregating the earnings estimates performance data for selected contributors according to one or more user-defined criteria, classified in class 705, subclass 36.

II. Claims 39-66, 68-88 and 90-94, drawn to a system for use with a computer-implemented system for viewing and analyzing performance data, the system comprising: a performance view module viewing performance data of contributors, wherein performance data comprises accuracy measures which compare contributors' forecasts and actual performances of one or more earnings events; and means for comparing the accuracy measures for one or more selected contributors to other contributors, classified in class 705, subclass 36.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are related as sub combinations disclosed as usable together in a single combination. The sub combinations are distinct from each other if they are shown to be separately usable. It is evident from the steps of the two inventions that the inventions are different in scope and utility. A utility of invention I is aggregating the earnings estimates performance data for selected contributors according to one or more user-defined criteria which is different from the utility of invention II, which is using accuracy measures which compare contributors' forecasts and actual performances of one or more earnings events and comparing the accuracy measures for one or more selected contributors to other contributors. See MPEP § 806.05(d). Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper, even though they are classified in the same class and subclass.
4. Applicant is advised that reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dr. N. Subramanian

February 28, 2006